

1 JOHN M. SORICH (CA Bar No. 25223)
jsorich@alvaradosmith.com
2 S. CHRISTOPHER YOO (CA Bar No. 169442)
cyoo@alvaradosmith.com
3 THOMAS S. VAN (CA Bar No. 209632)
tvan@alvaradosmith.com
4 ALVARADOSMITH
A Professional Corporation
5 1 MacArthur Place, Suite 200
Santa Ana, California 92707
6 Tel: (714) 852-6800
Fax: (714) 852-6899

7 Attorneys for Defendant
8 JPMORGAN CHASE BANK, N.A. AN ACQUIRER OF CERTAIN
ASSETS AND LIABILITIES OF WASHINGTON MUTUAL BANK
9 FROM THE FDIC ACTING AS RECEIVER, erroneously sued as
JPMORGAN CHASE BANK, NA (successor to)
10 WASHINGTON MUTUAL BANK

11 **UNITED STATES BANKRUPTCY COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13
14 In re

15 JAMES MADISON KELLEY,
16 Debtor.

17 JAMES MADISON KELLEY,
18 Plaintiff,

19 v.

20 JPMORGAN CHASE BANK, NA
21 (successor to) WASHINGTON MUTUAL
BANK
22 Defendants.
23

Adversary Case No.: 10-05245

Main BK Case No.: 08-55305 ASW
(Chapter 11)

JUDGE: Honorable Arthur S.
Weissbrodt

**STIPULATION FOR PROTECTIVE
ORDER**

24 Whereas James Madison Kelley (the "Debtor") and JPMorgan Chase Bank,
25 N.A. ("JPMorgan" or "Defendant") have propounded discovery in connection with the
26 above-referenced adversary proceeding and whereas JPMorgan has objected to some
27 of the items requested on the grounds of privilege and confidentiality. The Debtor and
28

JPMorgan (collectively, the “Parties,” and singularly a “Party”) hereby stipulate, and request the Court to enter an order approving, the following protective order (“Stipulated Protective Order”).

1. Definitions

(a) “Adversary Proceeding” means Kelley v. JPMorgan Chase Bank, N.A., Adv. Proc. No. 10-05245, pending in the United States Bankruptcy Court for the Northern District of California.

(b) “Confidential Information” means information or tangible things that qualify for protection under standards developed under Federal Rule of Civil Procedure 26(c), made applicable to this matter by Federal Rules of Bankruptcy Procedure 7026 and 9014.

(c) “Designating Party” means a Party or non-party that designates Discovery Material as “Confidential” in this Adversary Proceeding.

(d) “Discovery Material” means all items or information, regardless of the medium or manner generated, stored, or maintained (including, among other things, testimony, transcripts, or tangible things) that are produced or generated in disclosures or responses to discovery in this Adversary Proceeding.

(e) “Protected Material” means any Discovery Material that is designated as “Confidential.”

(f) “Producing Party” means a Party or a non-party that produces Discovery Material in this Adversary Proceeding.

(g) “Receiving Party” means a Party that receives Discovery Material in this Adversary Proceeding.

2. Designation of Confidential Information:

(a) For Confidential Information in documentary form (apart from transcripts of depositions), the Producing Party shall stamp “CONFIDENTIAL” on the copies of the document produced. Stamping “CONFIDENTIAL” on the cover of any multipage document shall designate all pages of the document as Confidential

1 unless otherwise indicated by the Producing Party.

2 (b) For Confidential Information contained in testimony given in
3 deposition, the Party or non-party offering or sponsoring the testimony must identify
4 on the record, before the certification of the deposition transcript, all protected
5 testimony and further specify any portions of the testimony that qualify as
6 “CONFIDENTIAL.”

7 (c) Inadvertent Failures to Designate. If timely corrected, an
8 inadvertent failure to designate qualified information or items as “Confidential” does
9 not, standing alone, waive the Designating Party’s right to secure protection under this
10 Stipulated Protective Order for such material. If material is appropriately designated
11 by “Confidential” after the material was initially produced, the Receiving Party, on
12 timely notification of the designation, must make reasonable efforts to assure that the
13 material is treated in accordance with the provisions of this Stipulated Protective
14 Order.

15 (d) Discovery Material designated as Confidential Information under
16 this Stipulated Protective Order and any summaries, copies, abstracts, or other
17 documents derived in whole or in part from material designated as Confidential
18 Information shall be used only for the purpose of the prosecution, defense, or
19 settlement of this Adversary Proceeding and for no other purpose.

20 3. Duration. Even after the termination of this Adversary Proceeding, the
21 confidentiality obligations imposed by this Stipulated Protective Order shall remain in
22 effect until a Designating Party agrees otherwise in writing or a court order otherwise
23 directs.

24 4. Access to and Use of Protected Material.

25 (a) Protected Material that is designated as “Confidential” and
26 produced pursuant to this Stipulated Protective Order may be disclosed or made
27 available only to the Court, counsel for a Party (including the paralegal, clerical, and
28 secretarial staff employed by counsel), and “qualified persons” designated below:

1 (i) A Party, or an officer, director, or employee of a Party
2 deemed necessary by counsel to aid in the prosecution, defense, or settlement of this
3 Adversary Proceeding.

4 (ii) Experts or consultants (together with their clerical staff)
5 retained by counsel to assist in the prosecution, defense, or settlement of this
6 Adversary Proceeding, who have signed the "Acknowledgement and Agreement to Be
7 Bound by Protective Order" (Exhibit A).

8 (iii) Court reporters employed in this Adversary Proceeding.

9 (iv) A witness at any deposition or other proceeding in this
10 Adversary Proceeding, who has signed the "Acknowledgement and Agreement to Be
11 Bound by Protective Order" (Exhibit A).

12 (v) Any other person as to whom the Parties in writing agree,
13 who has signed the "Acknowledgement and Agreement to Be Bound by Protective
14 Order" (Exhibit A).

15 (b) Nothing in this Stipulated Protective Order shall impose any
16 restrictions on the use or disclosure by a Party of material obtained by such Party
17 independent of discovery in this Adversary Proceeding, regardless of whether such
18 material is also obtained through discovery in this Adversary Proceeding or from
19 disclosing its own confidential material as it deems appropriate.

20 5. Challenging Confidentiality Designations.

21 (a) Timing of Challenges. Unless a prompt challenge to a Designating
22 Party's confidentiality designation is necessary to avoid foreseeable substantial
23 unfairness, unnecessary economic burdens, or a later significant disruption or delay of
24 the litigation, a Party does not waive its right to challenge a confidentiality designation
25 by electing not to mount a challenge promptly after the original designation is
26 disclosed.

27 (b) Meet and Confer. A Party that elects to initiate a challenge to a
28 Designating Party's confidentiality designation must do so in good faith and must

1 begin the process by conferring directly (in voice to voice dialogue; other forms of
2 communication are not sufficient) with counsel for the Designating Party. In
3 conferring, the challenging Party must explain the basis for its belief that the
4 confidentiality designation was not proper and must give the Designating Party an
5 opportunity to review the designated material, to reconsider the circumstances, and, if
6 no change in designation is offered, to explain the basis for the chosen designation. A
7 challenging Party may proceed to the next stage of the challenge process only if it has
8 engaged in this meet and confer process first.

9 (c) Judicial Intervention. A Party that elects to press a challenge to a
10 confidentiality designation after considering the justification offered by the
11 Designating Party may file and serve a motion that identifies the challenged material
12 and sets forth in detail the basis for the challenge. Each such motion must be
13 accompanied by a competent declaration that affirms that the movant has complied
14 with the meet and confer requirements imposed in the preceding paragraph and that
15 sets forth with specificity the justification for the confidentiality designation that was
16 given by the Designating Party in the meet and confer dialogue.

17 6. Protected Material Subpoenaed Or Ordered Produced In Other Litigation.

18 (a) If a Receiving Party is served with a subpoena or an order issued in
19 other litigation that would compel disclosure of any information or items designated
20 in this Adversary Proceeding as "CONFIDENTIAL," the Receiving Party must notify
21 the Designating Party, in writing (by fax, if possible) immediately and in no event
22 more than three court days after receiving the subpoena or order. Such notification
23 must include a copy of the subpoena or court order.

24 (b) The Receiving Party also must immediately inform in writing the
25 Party who caused the subpoena or order to issue in the other litigation that some or all
26 the material covered by the subpoena or order is the subject of this Stipulated
27 Protective Order. In addition, the Receiving Party must deliver a copy of this
28 Stipulated Protective Order promptly to the party in the other action that caused the

1 subpoena or order to issue.

2 (c) The purpose of imposing these duties is to alert the interested
3 Parties to the existence of this Stipulated Protective Order and to afford the
4 Designating Party in this case an opportunity to try to protect its confidentiality
5 interests in the court from which the subpoena or order issued.

6 7. Unauthorized Disclosure of Protected Material. If a Receiving Party
7 learns that, by inadvertence or otherwise, it has disclosed Protected Material to any
8 person or in any circumstances not authorized under this Stipulated Protective Order,
9 the Receiving Party must immediately (a) notify in writing the Designating Party of
10 the unauthorized disclosures, (b) use its best efforts to retrieve all copies of the
11 Protected Material, (c) inform the person or persons to whom unauthorized disclosures
12 were made of all the terms of this Stipulated Protective Order, and (d) request such
13 person or persons execute the "Acknowledgment and Agreement to Be Bound" that is
14 attached hereto as Exhibit A.

15 8. Filing Protected Material. Without written permission from the
16 Designating Party or a court order secured after appropriate notice to all interested
17 persons, a Party may not file in the public record in this Adversary Proceeding any
18 Protected Material. A Party that seeks to file under seal any Protected Material must
19 comply with Local District Court Rule 79-5, incorporated by reference by Local
20 Bankruptcy Rule 1001-2(a).

21 9. This Stipulated Protective Order shall be without prejudice to the rights
22 of the Parties:

23 (a) to bring before the Court at any time the question of whether any
24 particular document or information is confidential or whether its use should be
25 restricted;

26 (b) to present a motion to the Court under Rule 26(c) of the Federal
27 Rules of Civil Procedure for a separate protective order as to any particular document
28 or information, including restrictions differing from those as specified herein;

1 (c) to seek modification of this Stipulated Protective Order by the
2 Court in the future; or

3 (d) to object on any ground to use in evidence any of the material
4 covered by this Stipulated Protective Order.

5 10. This Stipulated Protective Order is entered solely for the purpose of
6 facilitating the exchange of documents and information between the Parties to this
7 Adversary Proceeding without unnecessarily involving the Court in the process.
8 Nothing in this Stipulated Protective Order nor the production of any information or
9 document under the terms of this Stipulated Protective Order nor any proceedings
10 pursuant to this Stipulated Protective Order shall be deemed to be an admission or
11 waiver by either Party or to be an alteration of the confidentiality or nonconfidentiality
12 of any such document or information or to be an alteration of any existing obligation
13 of any Party or the absence of any such obligation.

14 11. Final Disposition. This Stipulated Protective Order shall survive the final
15 termination of this Adversary Proceeding to the extent that the information contained
16 in Protected Material is not or does not become known to the public, and the Court
17 shall retain jurisdiction to resolve any dispute concerning the use of information
18 disclosed under this Stipulated Protective Order.

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1 Upon termination of this Adversary Proceeding, the Receiving Parties shall assemble
2 and return the Protected Material received from a Designating Party, including all
3 copies of same, or shall certify the destruction thereof.

4 Plaintiff/Debtor, In Propria Persona

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6 Dated: February 6, 2013⁴

James Madison Kelley (1)
James Madison Kelley

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10 Dated: Feb. 10th, 2013⁴

ALVARADOSMITH
A Professional Corporation

11 By:

JOHN M. SORICH
CHRISTOPHER YOO
THOMAS S. VAN
Attorneys for Defendant
JPMORGAN CHASE BANK, N.A. AN
ACQUIRER OF CERTAIN ASSETS
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25 (1) Sign and Return within a week to be valid. But
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EXHIBIT A

ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

I, JAMES Madison Kelley [print or type full name], of
14390 Douglas Lane, SANTA ANA, CA 92706 [print or type full address], declare under penalty of perjury that I
have read in its entirety and understand the Stipulated Protective Order that was issued by the United
States Bankruptcy Court of the Northern District of California on _____ in *In re Kelley*,
bankruptcy case number 08-55305 ASW, *Kelley v. JPMorgan Chase Bank, NA*, adversary
proceeding number 10-05245. I agree to comply with and to be bound by all the terms of the
Stipulated Protective Order, and I understand and acknowledge that failure to so comply could
expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not
disclose in any manner any information or item that is subject to the Stipulated Protective Order to
any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United State Bankruptcy Court of the
Northern District of California for the purpose of enforcing the terms of this Stipulated Protective
Order, even if such enforcement proceedings occur after termination of this bankruptcy case.

Date: Feb 6, 2014

City and State where sworn and signed: Campbell, California

Printed name: JAMES M. Kelley

Signature: James M. Kelley